

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

In re application of: GRAHAM et al. )  
Serial No.: 10/811,342 ) Group Art Unit: 2617  
Filed: March 26, 2004 ) Confirmation No. 1575  
For: **METHOD AND APPARATUS FOR** ) Examiner: SAMS, Matthew C.  
**FORECASTING GROWTH OF** )  
**WIRELESS TELECOMMUNICATIONS** )  
**SYSTEMS** )

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Alexandria, Virginia 22313-1450

**REPLY BRIEF UNDER 37 C.F.R. § 41.41**

**INTRODUCTION**

Sir:

This is a Reply Brief to the Board of Patent Appeals and Interferences of the Examiner's Answer of October 1, 2007, and supplements Applicants' Appeal Brief filed September 5, 2007. This Reply Brief is filed within two months of the date of the filing of the Examiner's Answer. Thus, no fee or extension of time is believed to be due. However, if any extension is required, please consider this a request therefor. The Commissioner is authorized to charge any additional fees or credit any overpayment to Deposit Account 50-1513.

**CERTIFICATE OF EFS-WEB TRANSMISSION**

I hereby certify that this correspondence is being transmitted to the U.S. Patent and Trademark Office via EFS-Web on the date indicated below.

/Michelle E. Kandcer/

Michelle E. Kandcer

November 30, 2007

Date

**ARGUMENT**

In response to the Examiner's new arguments, namely his mathematical arguments on pages 10-11 of the Examiner's Answer, Applicants respectfully point out that the Examiner is attempting to use a single metric, namely Erlang traffic, to meet two of Applicants' claim limitations.

Applicants have claimed (and intended to claim) the distinct metrics of MOU and system traffic. Notably, as described in the Applicants' specification, the current system traffic level is a measure of the traffic in the system during busy (or peak) hours of a day. The current MOU, however, is the separate and distinct measure of the minutes used over the day (including during non-busy hours).

The Examiner has taken the position that Applicants' system traffic level is Erlang traffic and that Applicant's MOU metric is also Erlang traffic. In effect, the Examiner is stating that the Applicants are claiming a single limitation twice. Clearly, this is not the case. If this were the case, the Examiner should have issued a §112 rejection based on a double inclusion of elements and not a §102(e) rejection that uses a single feature of one reference to show two distinct limitations of the Applicants' claims.

**CONCLUSION**

In view of the above and the previously filed Appeal Brief, the pending grounds of rejection cannot be maintained and all pending claims must be allowed. Any communication that may expedite allowance should be directed to Applicants' undersigned attorney at (770) 984-2300.

Respectfully submitted,  
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